

### REMARKS/ARGUMENTS

Reconsideration of this patent application is respectfully requested in view of the foregoing amendments, and the following remarks.

The claims are 24-40, 42-43, and 46-53. Independent claims 24 and 46 have been amended to more clearly define the invention. In particular, claim 24 has been amended, *inter alia*, to include the subject matter of claim 41, which claim has been cancelled without prejudice. New independent claim 53, which includes the subject matter of claims 24, 31, 37, 39 and 41 as presented in the Amendment filed on September 28, 2009, has been added. Claims 24-31, 33-40, 42, 43, 47 and 49 have been amended to improve their form and in view of the amendments to independent claims 24 and 46. Claims 1-23 were previously cancelled and claims 44-45 were previously withdrawn by the Examiner as being directed to a nonelected invention.

Support for the amendments to claim 24 may be found, *inter alia*, in claim 18 as originally filed, in the disclosure in FIGS. 2 and 4, in the first full paragraph of page 6 of the specification as originally filed, in the first and second full paragraphs of page 17 of the specification as originally filed,

and in the paragraph bridging pages 18 and 19 of the specification as originally filed.

Support for the amendments to claim 46 may be found, *inter alia*, in the disclosure in FIG. 4, in the first full paragraph of page 6 of the specification as originally filed, and in the paragraph bridging pages 18 and 19 of the specification as originally filed.

Support for new claim 53, which contains the subject matter of claims 24, 31, 37, 39 and 41 as presented in the September 28, 2009 Amendment, may be found, *inter alia*, in claim 13 as originally filed, in the first full paragraph of page 6 of the specification as originally filed, and in the paragraph bridging pages 18 and 19 of the specification as originally filed.

No new matter has been introduced.

Claims 24-43 and 46-52 of the application were rejected under 35 U.S.C. § 101 as being inoperative and lacking utility. In particular, the Examiner has indicated that the claims recite a plurality of ultrasonic transmitters arranged along a path and at least three electromagnetic radiation receivers arranged along the path without reciting any other receivers or transmitters.

In the Examiner's view, the device and method as claimed would not function and would be inoperable because the electromagnetic radiation receivers cannot receive ultrasonic radiation and there are no transmitters to transmit electromagnetic radiation.

Claims 24-43 and 46-52 were also rejected under 35 U.S.C. § 112, first paragraph, because, in the Examiner's view, a receiver for receiving the ultrasonic radiation and a source for generating the electromagnetic radiation were not enabled by the disclosure.

Without conceding the propriety of the Examiner's rejections and in order to expedite prosecution of this case, these rejections are respectfully traversed in view of the foregoing amendments to the claims and the following remarks.

Independent claim 24 has been amended to include the feature of an identification unit having both an ultrasonic receiver and an electromagnetic radiation transmitter. Independent claim 46 has been amended to clarify that the identification unit, introduced into a region irradiated with sound, has both an ultrasonic receiver and an electromagnetic radiation transmitter. New independent claim 53 includes the element of an identification unit having both an ultrasonic receiver and an

electromagnetic radiation transmitter to accompany the recited ultrasonic transmitters and electromagnetic radiation receivers incorporated from claim 24.

Accordingly, it is respectfully submitted that Applicants' amended claims and new claim recite an operative, useful arrangement, i.e. an operative and useful machine or manufacture, and an operative, useful process, each of which meet the requirements of patentable subject matter under 35 U.S.C. § 101, and it is respectfully requested that the rejection of the claims under 35 U.S.C. § 101 as being inoperable and lacking utility be withdrawn.

Moreover, it is respectfully submitted that Applicants' disclosure enables the claimed arrangements and the claimed process, which meets the enablement requirement of 35 U.S.C. § 112, first paragraph.

It is respectfully submitted that Applicants' disclosure enables one of ordinary skill in the art to make and use an arrangement having an ultrasonic receiver as recited in Applicants' amended claims and new claim. The paragraph bridging pages 18 and 19 of the specification as originally filed discloses that an ultrasonic propagation time measurement is

performed with the aid of an ultrasonic receiver. This ultrasonic receiver can be located in an identification unit, as explained in the first full paragraph of page 6 of the specification as originally filed. A location of the identification unit with respect to an ultrasonic transmitter or with respect to ultrasonic transmitters can be determined by the propagation time measurement between an ultrasonic transmitter and the ultrasonic receiver of the identification unit. See, for example, the paragraph bridging pages 21 and 22 of the specification as originally filed, which explains that the identification unit, e.g. the DisTag, undergoes propagation time measurements with ultrasonic transmitters (7a, 7b in FIG. 5) in the external environment to determine a location of the DisTag. The DisTag has an ultrasonic receiver 330 to receive ultrasonic transmissions from the ultrasonic transmitters 7a and 7b to perform the propagation time measurements. See the first full paragraph of page 6 of the specification as originally filed, the only full paragraph on page 18 of the specification as originally filed, and the paragraph bridging pages 18 and 19 of the specification as originally filed.

Accordingly, it is respectfully submitted that Applicants' disclosure describes the manner and process of making and using an arrangement having an ultrasonic receiver, as recited in

Applicants' amended claims and new claim, in a full, clear, concise, and exact manner so as to enable one of ordinary skill in the art to make and use the arrangement having an ultrasonic receiver. It is thereby respectfully noted that the enablement requirement under 35 U.S.C. § 112, first paragraph, requires a disclosure to enable one of ordinary skill to be able to make and use the invention, and does not require that the disclosure enable a person who has absolutely no familiarity with the technology of the invention to make and use the invention.

Moreover, it is respectfully submitted that Applicants' disclosure enables one of ordinary skill in the art to make and use an arrangement having a source for generating electromagnetic radiation. Applicants' amended claims and new claim provide arrangements having an electromagnetic radiation receiver and having an electromagnetic radiation transmitter and a method for using an arrangement having an electromagnetic radiation receiver and an electromagnetic radiation transmitter. Each of an electromagnetic radiation receiver and an electromagnetic radiation transmitter as recited in Applicants' amended claims and new claim can be an antenna. The only full paragraph on page 6 of the specification as originally filed and the paragraph bridging pages 18 and 19 of the specification as originally filed explain that an identification unit has a radiation transmitter which can be an antenna 302, which antenna can communicate with radiation receivers, e.g. radio antennas 120

to 162, that are located in the environment external to the identification unit.

The last sentence of the paragraph bridging pages 12 and 13 of Applicants' specification as originally filed explains how this communication between a radiation transmitter of an identification unit and radiation receivers, e.g. radio antennas, external to the identification unit can be used to determine a location of the identification unit with respect to the external radiation receivers or antennas.

It is respectfully submitted that one of ordinary skill in the art, who is familiar with electromagnetic radiation antennas, understands that the antenna itself is the source of the electromagnetic radiation waves, because an antenna converts electromagnetic waves into electrical currents and vice versa. Accordingly, by disclosing that each of an electromagnetic radiation receiver and an electromagnetic radiation transmitter can be an antenna, Applicants' disclosure specifies a source for generating electromagnetic radiation and enables one of ordinary skill in the art to make and use an arrangement having electromagnetic radiation receivers and electromagnetic radiation transmitters, as recited in Applicants' amended claims and new claim, and to perform a method using the arrangement for locating an object.

Accordingly, it is respectfully submitted that Applicants' disclosure describes the manner and process of making and using an arrangement that uses electromagnetic radiation, as recited in Applicants' amended claims and new claim, in a full, clear, concise, and exact manner so as to enable one of ordinary skill in the art to make and use the arrangement that uses electromagnetic radiation. It is thereby respectfully noted that the enablement requirement under 35 U.S.C. § 112, first paragraph, requires a disclosure to enable one of ordinary skill to be able to make and use the invention, and does not require that the disclosure enable a person who has absolutely no familiarity with the technology of the invention to make and use the invention.

Accordingly, it is respectfully submitted that Applicants' disclosure meets the requirements of enablement under 35 U.S.C. § 112, first paragraph, and it is respectfully requested that the rejection of the claims under 35 U.S.C. § 112, first paragraph, be withdrawn.

In summary, claims 24-31, 33-40, 42-43, 46-47, and 49 have been amended, claim 53 has been added, and claim 41 has been cancelled.

In view of the foregoing, Applicants respectfully submit that the rejections of the claims under 35 U.S.C. § 101 and 35 U.S.C. § 112, first paragraph, have been overcome, and it is respectfully requested that the rejections be withdrawn. There being no rejections on the basis of the prior art, it is accordingly believed that the pending claims, which are claims 24-40, 42-43, and 46-53, are in condition for allowance and the prompt issuance of a Notice of Allowance is respectfully requested.

Respectfully submitted,  
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